

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 14, 2009

**D056255     J.B. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner J.B. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D053875     People v. Agoun**

The judgment is affirmed. O'Rourke, J; We Concur: Benke, Acting P.J., Haller, J.

**D053408     Aquino v. Crucero USA, LLC**

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Aaron, J.

**D056155     In re F.T., a Juvenile**

This case has been reviewed by Justices Nares, Haller, and O'Rourke. On December 1, 2009, this court requested a written statement from appellant I.T., explaining why he has standing to appeal the October 27, 2009 order. The court has read and considered the letter received by I.T. on December 10, 2009. I.T. does not have standing. The appeal is dismissed.

Court convened at 9:00 a.m.

Present:     The Honorable Judith McConnell, Presiding Justice, and  
                 The Honorable Associate Justices Judith Haller and Joan Irion  
Clerk:        D. Moore

**D054783     Conservatorship of J Brown**

Cause called on merits. William Johnson, Deputy County Counsel, argued for respondent. Suzanne Miu Davidson, Esq. argued for appellant. Cause submitted.

**D055923     Gardner v. Superior Court**

Cause called on merits. Ronald B. Funk, Esq. argued for appellant. Sarah Lee Overton, Esq. argued for respondent. Matter submitted.

**D054470     Warburton et al. v. Zinner et al.**

Cause called on merits. Philip Burkhardt, Esq. argued for appellant. Ralph W. Peters, Esq. argued for respondent. Mr. Burkhardt replied. Cause submitted.

Court recessed at 9:39 a.m. until 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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December 14, 2009 (Continued)

Court reconvened at 1:30 p.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and  
The Honorable Associate Justices Alex McDonald and James McIntyre  
Clerk: D. Moore

**D053978 Marsh v. Marsh**  
Cause called on merits. Janice R. Mazur, Esq. argued for appellant.  
John M. Morris, Esq. argued for respondent. Ms. Mazur replied. Cause submitted.

**D054628 People v. Foster**  
Cause called on merits. Patrick Morgan Ford, Esq. argued for appellant.  
Marissa Bejarano, Deputy Attorney General, argued for respondent. Mr. Ford  
replied. Cause submitted.

**D053960 Fuentes v. City of Chula Vista et al.**  
Cause called on merits. Joseph Darrell Palmer, Esq. argued for appellant.  
Charles A. Bird, Esq. argued for respondent, City of Chula Vista.  
Garth Matthew Drozin, Esq. argued for respondent, Tesh. Mr. Palmer replied.  
Cause submitted.

Court recessed at 2:38 p.m. until Tuesday, December 15, 2009 at 9:00 a.m.

**D056292 In re Sexton on Habeas Corpus**  
The petition is denied.

**D056144 In re Early on Habeas Corpus**  
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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December 14, 2009 (Continued)

**D056025     Bays v. O'Rourke**

The court has received and considered the parties' letter briefs regarding the appealability of the superior court's September 14, 2009 order that the appellant seeks to challenge. The matter having been considered by Presiding Justice McConnell and Associate Justices Haller and Nares, the appeal is dismissed on the ground that the order is not appealable.

As previously noted, appeals in general probate matters are limited and there is no right to appeal from orders of the probate court except as authorized by the Probate Code. (*Estate of Stoddart* (2004) 115 Cal.App.4th 1118, 1125-1126.) The appellant has been unable to identify any Probate Code section that authorizes an appeal from the September 14, 2009 order. Moreover, a review of the order establishes that it merely (1) renews a prior order requiring the appellant to turn over estate assets, (2) extends letters of administration previously issued and (3) authorizes the Public Administrator to undertake or defend against litigation relating to the estate or its assets, none of which is made appealable by Probate Code section 1303. (See *Estate of Martin* (1999) 72 Cal.App.4th 1438, 1442 [recognizing that the appealability of an order is determined not from its form, but from its legal effect].)

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D054852     Hallam et al. v. Johnson et al.**

The January 16, 2009 order is reversed insofar as it awards monetary sanctions in the amount of \$10,000 for costs related to the taking of future depositions. The January 16 order is affirmed insofar as it awards \$25,607.03 in monetary sanctions. Each party is to bear its own costs on appeal.  
Aaron, J.; We Concur: McConnell, P.J., McDonald, J.

**D054731     In re Marriage of Witzman**

The order is affirmed. Nares, J.; We Concur: McConnell, P.J., Aaron, J.

**D055193     Conservatorship of the Person of Elaine R.**

The judgment is reversed.  
O'Rourke, J.; We Concur: Huffman, Acting P.J., Nares, J.

**D056142     Geib v. R.M. Graham Enterprise, Inc.**

The court has received and considered the parties' letter briefs regarding the appealability of the superior court's October 15, 2009 order that the appellant seeks to challenge. The matter having been considered by Presiding Justice McConnell and Associate Justices Haller and Nares, the appeal is dismissed on the ground that the order is not appealable. (*Leader v. Health Industries of America, Inc.* (2001) 89 Cal.App.4th 603, 611.) Moreover, as the respondent point out, no final judgment or order can be entered with respect to parties as to whom a cross-complaint remains pending, even though the complaint has been fully adjudicated. (*Angell v. Superior Court* (1999) 73 Cal.App.4th 691, 697-698; *California Dental Assn. v. California Dental Hygienists' Assn.* (1990) 222 Cal.App.3d 49, 59.) The dismissal is without prejudice to the right to appeal from a judgment that completes the disposition of all causes of action between the appellant and the respondent.

**D054495     In re Edward Scott C., a juvenile**

The judgment is affirmed.  
McIntyre, J.; We Concur: McConnell, P.J., McDonald, J.

**D053932     Porras v. Sweetwater Union High School District**

The judgment is affirmed. Defendant is entitled to costs on appeal.  
McDonald, J.; We Concur: Huffman, Acting P.J., Nares, J.

Court convened at 9:00 a.m.

Present:     The Honorable Alex McDonald, Acting Presiding Justice, and  
                 The Honorable Associate Justices James McIntyre and Cynthia Aaron  
Clerk:        D. Moore

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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December 15, 2009 (Continued)

**D054441    People v. Blanco**

Cause called on merits. Marianne Harguindeguy, Esq. argued for appellant. Seth McCutcheon, Certified Legal Intern, argued for respondent. Mr. Harguindeguy replied. Cause submitted.

**D054337    Rababy et al. v. Rancho Santa Fe Association**

Cause called on merits. Michael J. Hickman, Esq. argued for appellant. Keenan A. Parker, Esq. argued for respondent. Mr. Hickman replied. Cause submitted.

Court recessed at 9:56 a.m. to change panel members.

New panel members: The Honorable James McIntyre, Acting Presiding Justice, and  
The Honorable Associate Justices Cynthia Aaron and Joan Irion

**D053402    People v. Baek**

Cause called on merits. Joanna McKim, Esq. argued for appellant. Donald Ostertag, Deputy Attorney General, argued for respondent. Ms. McKim replied. Cause submitted.

**D055396    Lawson et al. v. Superior Court/Center Point, Inc., et al.-RPI**

Matter called on merits. John Theodore Richards, Esq. argued for petitioner. Susan L. Mason, Esq. argued for real party in interest, Center Point et al. Anthony C. Ferguson, Esq. argued for real party in interest, Koen et al. Mr. Richards replied. Matter submitted.

Court recessed at 11:05 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present:     The Honorable Gilbert Nares, Acting Presiding Justice, and  
               The Honorable Associate Justices Alex McDonald and Cynthia Aaron

Clerk:        D. Moore

**D054199    Escobedo v. Blazeovich**

Cause called on merits. Paul Blazeovich, argued for appellant, in pro per. Erin Tomlinson, Esq. argued for respondent, Escobedo. Linda M. Gonzalez, Deputy Attorney General, argued for respondent, San Diego County Dept. of Child Support Services (argued telephonically). Mr. Blazeovich replied. Cause submitted.

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**D051710     P.O.P. Enterprises, Inc. v. Lively**  
Cause called on merits. James S. Marinos, Esq. argued for appellant, Lively. Robert H. Lynn, Esq. argued for appellant, P.O.P. Enterprises. Mr. Marinos replied. Cause submitted.

**D055329     In re C.G. et al., juveniles**  
Cause called on merits. Sahyeh Samantha Fattahi, Esq. argued for appellant. Amanda Benedict, Esq. argued for the minors. Gary Seiser, Deputy County Counsel, argued for respondent. Ms. Fattahi replied. Ms. Benedict replied. Cause submitted.

**D054267     Poniktera v. Seiler**  
Cause called on merits. Ken I. Karan, Esq. argued for appellant. Timothy M. Barry, Deputy County Counsel, argued for respondent. Mr. Karan replied. Cause submitted.

Court recessed at 3:05 p.m. until Thursday, December 17, 2009 at 9:00 a.m.

**D054251     Siry v. Rubin**  
The request for publication of the opinion is denied.

**D055548     Taylor-Errone v. Taylor**  
Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.

**D055130     People v. Madrid**  
The judgment is affirmed. Huffman, J.; We Concur: McConnell, P.J., Aaron, J.

**D053089     Jameson v. Desta**  
The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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Court Furlough Day

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 17, 2009

- D052997     People v. Harper**  
The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Aaron, J.
- D055446     Derick B. v. Superior Court of San Diego County/People**  
Let a writ of prohibition issue directing the court to vacate its May 26, 2009 order imposing a Fourth Amendment waiver condition on Derick's informal supervision pursuant to section 654.2. This decision will become final as to this court 10 days after it is filed. (Cal. Rules of Court, rule 8.490(b)(3).)  
Huffman, Acting P.J.; We Concur: McIntyre, J., Irion, J.
- D055380     People v. Mitchell**  
The judgment is affirmed.  
McDonald, Acting P.J.; We Concur: McIntyre, J., Aaron, J.
- D055923     Gardner v. Superior Court of California County of Orange**  
The judgment of dismissal is affirmed.  
Irion, J.; We Concur: McConnell, P.J., Haller, J.
- D054639     In re N.T. et al., Juveniles**  
The judgment is affirmed and April's Application is denied.  
O'Rourke, J.; We Concur: Huffman, Acting P.J., Irion, J.
- D055554     People v. Gordillo**  
The judgment is affirmed. McDonald, J.; We Concur: Nares, Acting P.J., Aaron, J.
- D055214     In re Cody E., a Juvenile**  
The order is affirmed. McConnell, P.J.; We Concur: O'Rourke, J., Aaron, J.
- D055176     People v. Williams**  
The judgment is affirmed. McIntyre, J.; We Concur: McConnell, P.J., Benke, J.

Court convened at 9:00 a.m.

Present:     The Honorable Judith McConnell, Presiding Justice, and  
              The Honorable Associate Justices Terry O'Rourke and Joan Irion

- D053987     People v. DaCosta**  
**D055074     In re DaCosta on Habeas Corpus**  
Cause called on merits. John Lanahan, Esq. argued for appellant.  
Garrett Beaumont, Deputy Attorney General, argued for respondent. Mr. Lanahan replied. Cause submitted.



COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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December 17, 2009 (Continued)

**D054544     Krouner v. California Department of Real Estate**

Cause called on merits. Leonard Krouner argued for appellant in pro per. Mr. Timothy Nader, Esq. argued for respondent. Mr. Lanahan replied. Submission deferred.

**D054050     Lira et al. v. Lira**

Cause called on merits. Sharon Voorhees, Esq. argued for appellant. Ethan Marcus, Esq. argued for respondent. Ms. Voorhees replied. Cause submitted.

Court recessed at 10:30 a.m. until 1:30 p.m.

**D055694     In re Marriage of Woods**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.360(c)(5)(A). The appeal is dismissed.

**D054750     People v. Espinoza**

Espinoza's second prison prior enhancement is stricken rather than stayed. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting the modification and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation. Huffman, J.; We Concur: McConnell, P.J., McDonald, J.

**D053807     People v. Hernandez**

The judgment is affirmed. McIntyre, J.; We Concur: Haller, Acting P.J., Aaron, J.

**D054741     People v. Jefferson**

Judgment affirmed. Huffman, Acting P.J.; We Concur: Haller, J., Irion, J.

**D055572     In re Brian G., a Minor**

The orders are affirmed.  
McIntyre, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D055981     In re J.M., a Juvenile**

The appeal is dismissed. Nares, J.; We Concur: McConnell, P.J., McDonald, J.

**D054951     In re A.S., a Juvenile**

The orders are affirmed.  
Huffman, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

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December 17, 2009 (Continued)

- D056249     Kunit v. Kingston**  
Because appellant did not timely pay the filing fee, the appeal is dismissed.  
(Cal. Rules of Court, rule 8.100(c)(3).)
- D056058     In re Savannah L., a Juvenile**  
The appeal is dismissed. Benke, J.; We Concur: McConnell, P.J., McIntyre, J.
- D054341     People v. Filippone**  
The judgment is affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., Aaron, J.
- D053843     City of Carlsbad et al. v. Insurance Company of the State of Pennsylvania**  
The opinion filed November 20, 2009, is ordered certified for publication.
- D054112     People v. Wood**  
**D055201     In re Wood on Habeas Corpus**  
The pending petition for writ of habeas corpus D055201, is consolidated with the pending appeal, D054112 for disposition.
- D056234     Reis v. Pressman, a Judge of the Superior Court et al.**  
The petition for writ of supersedeas and request for stay have been read and considered by Justices Nares, Haller and O'Rourke. The petition is denied.
- D054304     People v. Sosa**  
Appellant's convictions for child endangerment, counts 9 and 10, are reversed. The matter is remanded to the trial court for resentencing consistent with this opinion. In all other respects the judgment is affirmed.  
McIntyre, J.; We Concur: Nares, Acting P.J., McDonald, J.
- D056253     Kunit v. Kingston**  
The parties have not filed letter briefs as requested by this Court on November 25, 2009, regarding the appealability of the March 21, 2008, minute order and timeliness of the notice of appeal. Because appellant did not timely pay the filing fee, the appeal is dismissed. (Cal. Rules of Court, rule 8.100(c)(3).)
- D054112     People v. Wood**  
**D055201     In re Wood on Habeas Corpus**  
The petition is denied. The judgment of conviction on count 1 and related sentencing orders, such as the order requiring Wood to register under Penal Code section 290 as a sex offender, are reversed. In all other respects, the judgment is affirmed. Nares, J.; We Concur: Benke, Acting P.J., Huffman, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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December 17, 2009 (Continued)

**D053682    People v. Ruiz**

The judgment is reversed. Irion, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

Court reconvened at 1:30 p.m.

Present:        The Honorable Judith Haller, Acting Presiding Justice, and  
                  The Honorable Associate Justices Terry O'Rourke and Joan Irion

**D053325    American Meat Institute et al. v. Leeman**

Cause called on merits. Clifford Chanler, Esq. argued telephonically for appellant. Maria Chedid, Esq. argued for respondent. Mr. Chanler replied. Ms. Chedid replied. Cause submitted.

**D054988    People v. Anunciation**

Cause called on merits. Marcia Clark, Esq. argued for appellant. Donald Ostertag, Deputy Attorney General, argued for respondent. Ms. Clark replied. Cause submitted.

**D053900    Cohen et al. v. Automobile Club of Southern California et al.**

Cause called on merits. Anton Gerschler, Esq. argued for appellant. Timothy Walker, Esq. argued for respondent. Gregory Bamlage, Esq. argued for respondent. Mr. Gerschler replied. Cause submitted.

Court recessed at 3:05 p.m. for panel change

Present:        The Honorable Judith McConnell, Presiding Justice, and  
                  The Honorable Associate Justices Terry O'Rourke and Joan Irion

**D054485    Frost v. Frost**

Cause called on merits. Patrick McCrary, Esq. argued for appellant. Stephen Temko, Esq. argued for respondent. Mr. McCrary replied. Cause submitted.

Court recessed at 3:30 p.m. for panel change

Present:        The Honorable Judith McConnell, Presiding Justice, and  
                  The Honorable Associate Justices Judith Haller and Terry O'Rourke

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D054552     American Casualty Company of Reading, PA v. Children's Hospital Insurance Limited et al.**

Cause called on merits. Robert Closson, Esq. argued for appellant.  
Mary Anderson, Esq. argued for respondent. Mr. Closson replied.  
Cause submitted.

Court recessed until 9:00 am on December 18, 2009

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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December 18, 2009

- D056407     Ashley v. Superior Court of San Diego County/People**  
The petition is denied.
- D055224     Riney v. Safeway, Inc., et al.**  
Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).) Each party to bear own costs on appeal.
- D055731     In re J.T., a Juvenile**  
The appeal is dismissed. McConnell, P.J.; We Concur: Benke, J., Nares, J.
- D054443     People v. Zamudio**  
The kidnapping conviction in count 5 is reversed, the true findings of kidnapping under section 667.61, subdivision (e)(1) are stricken in counts 1 and 2, and the deadly weapon enhancement is stricken in count 1. On remand, the district attorney has 60 days to decide whether to retry Zamudio on the kidnapping charge and special allegation. In the event the district attorney elects not to retry Zamudio, the court is directed to stay the sentence on either count 3 (burglary) or count 4 (robbery) pursuant to section 654, and to award Zamudio one day of presentence custody credit. The judgment is affirmed in all other respects.  
McIntyre, J.; We Concur: McConnell, P.J., Aaron, J.
- D056385     In re Walz on Habeas Corpus**  
The petition is denied.
- D053118     People v. Ortiz**  
The trial court is directed to amend the abstract of judgment to reflect (1) Ortiz was convicted of assault with force likely to produce great bodily injury, (2) she is entitled to a total of 372 days of presentence credit, consisting of 248 actual days plus section 4019 credits of 124 days, and (3) her postconviction time credits are not limited by section 2933.1. The court is further directed to forward a copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.  
Benke, J.; We Concur: McConnell, P.J., Huffman, J.
- D055250     People v. Acron**  
The judgment is affirmed. McConnell, P.J.; We Concur: O'Rourke, J., Irion, J.
- D056383     In re Serpa on Habeas Corpus**  
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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December 18, 2009 (Continued)

**D056250     Kunit v. Kingston**

The parties have not filed letter briefs as requested by this court on November 24, 2009, regarding appealability and timeliness of the notice of appeal. The notice of appeal and the May 2, 2008, minute order have been read and considered by Presiding Justice McConnell and Associate Justices Nares and Haller. The appeal is dismissed.

**D053647     People v. Luis D., a Minor**

The matter is remanded to the juvenile court for the limited purpose of determining whether to impose on Luis probation conditions 34 and/or 36. In all other respects, the judgment is affirmed.

Benke, Acting P.J.; I Concur: Huffman, J., I dissent: McDonald, J.

**D056424     In re Ramos on Habeas Corpus**

The petition for writ of habeas corpus has been read and considered by Justices Nares, Haller and O'Rourke. Ricky Ramos charges the Board of Parole Hearings with improperly revoking his parole when it no longer had jurisdiction over him and refusing him a hearing to determine the amount of time remaining on his base term. Ramos concedes he has not filed a petition on this issue in any other court. "[B]oth trial and appellate courts have jurisdiction over habeas corpus petitions, but a reviewing court has discretion to deny without prejudice a habeas corpus petition that was not filed first in a proper lower court." (*In re Steele* (2004) 32 Cal.4th 682, 692.) The petition is denied without prejudice to refiling in San Diego County Superior Court, 220 West Broadway, San Diego, California 92101.

**D055005     In re Velarde on Habeas Corpus**

The pending petition for writ of habeas corpus, *In re Fernando F. Velarde*, D055005, is consolidated for disposition with the pending appeal, *People v. Fernando F. Velarde*, D053306.

**D055005     In re Velarde on Habeas Corpus**

**D053306     People v. Velarde**

This is an unfortunate case. Nonetheless, we affirm the order denying Velarde's motion to withdraw his plea and deny his petition for a writ of habeas corpus.

Benke, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

**D054442     People v. Hudon**

The judgment is affirmed.

Nares, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

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December 18, 2009 (Continued)

Court convened at 9:00 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and  
The Honorable Associate Justices James McIntyre and Cynthia Aaron

**D054569 Reedy v. Bussell**

Cause called on merits. Nate Kraut, Esq. argued for appellant.  
Charles Berwanger, Esq. argued for respondent. Mr. Kraut replied.  
Cause submitted.

**D053628 Chee-Wong v. Chen**

Cause called on merits. Aina Chen argued for appellant in pro per.  
Gregory Cartwright, Esq. argued for respondent. Ms. Chen replied.  
Cause submitted.

Court recessed at 9:50 a.m.

**D054212 Page v. MiraCosta Community College District et al.**

The petitions for rehearing are denied. The opinion filed November 23, 2009, is  
ordered certified for publication.

**D054277 Kennedy v. Kennedy**

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed  
and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule  
8.244(c)(2).) Each party to bear own costs on appeal.

**D054628 People v. Foster**

The judgment is affirmed.  
Nares, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

**D052813 People v. Green**

The judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., McDonald, J.

**D054047 Dean v. Smykowski**

Judgment is affirmed. Costs on appeal to Smykowski.  
Nares, Acting P.J.; We Concur: McDonald, J., Aaron, J.

**D055217 Valenzuela v. Styn**

Pursuant to California Rules of Court, rule 8.140, the appeal filed June 01, 2009, is  
dismissed for appellant's failure to timely designate the record (Cal. Rules of Court,  
rule 8.121(a)).

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D056273     D'Agostino v. Superior Court of San Diego County/Jafek et al.**

For good cause shown, the San Diego County Superior Court is ordered to show cause why the requested relief should not be granted. Absent objection by counsel on or before December 29, 2009, the opposition currently on file shall be deemed the return to the order to show cause. Petitioner may file a reply on or before January 5, 2010.

Absent a written request on or before January 12, 2010, oral argument will be deemed waived. If a party requests oral argument, the request should be in letter form with proof of service on the other parties. The letter should also identify the focus of the party's argument and the amount of time requested, not to exceed 15 minutes.

**D053490     De Anza Cove Homeowners Association et al. v. City of San Diego**

The City of San Diego's (City) motion to dismiss the appeal of DeAnza Cove . . . and the individual plaintiffs (collectively DeAnza), under the "one judgment rule" was considered by Presiding Justice McConnell and Associate Justices Benke and Huffman. (See *Muller v. Fresno Community Hosp. & Medical Center* (2009) 172 Cal.App.4th 887, 903-904 ["The reason for the one judgment rule is that "piecemeal disposition and multiple appeals in a single action would be oppressive and costly, and . . . a review of intermediate rulings should await the final disposition of the case" '"].) DeAnza purports to appeal an order on the court's statement of decision, when further proceedings are contemplated, including a hearing on statutory penalties, and no final judgment has been issued. To any extent the order in question is an order granting injunctive relief, and thus could be an exception to the "one judgment rule" (see Code Civ. Proc., § 904.1), we reject DeAnza's argument it is an "aggrieved" party under the order within the meaning of Code of Civil Procedure section 902. The motion is granted. Respondent is awarded costs on appeal.